



King County Board of Ethics
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KING COUNTY BOARD OF ETHICS MEETING NOTICE

When: Monday, April 15, 2002, at 4:30 p.m.

Where: Bank of California Building
900 Fourth Avenue, 4th Avenue and Marion Street, Seattle
5th floor conference room, northwest corner of building

AGENDA

1. ***Approval of Agenda***
2. ***Approval of Meeting Minutes of February 19, 2002.***
3. ***Change of Board Counsel.*** Briefing.
4. ***Request for Advisory Opinion on Use of County Resources.***
5. ***Ethics Legislation.*** Counsel Report on Proposed Amendment Relating to Post Employment Restriction
6. ***Meetings with Councilmembers.*** Status Report.
7. ***Staff Report.***
 - Monthly Bulletin—Current Ethics Issues
 - Financial Disclosure Program 2002—status
 - Seattle Ethics & Elections Commission Executive Director Retires
 - Public Disclosure Request—information only
 - Board Response to Request for Advisory Opinion—information only

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Minutes of the April 15, 2002, Meeting of the King County Board of Ethics

The April 15, 2002, meeting of the King County Board of Ethics was called to order by Chair Price Spratlen at 4:31 p.m. Board members in attendance were:

Lois Price Spratlen, Ph.D., Chair
Margaret T. Gordon, Ph.D.
Lembhard G. Howell, Esq.
Rev. Paul F. Pruitt

Mr. Roland H. Carlson had an excused absence

Others in attendance:

Ms. Catherine A. Clemens, Administrator, King County Board of Ethics
Mr. James J. Buck, Administrative Services Manager, Department of Executive Services
Mr. Donald J. Porter, Senior Deputy Prosecuting Attorney
Ms. Cheryl Carlson, Senior Deputy Prosecuting Attorney
Mr. Makoto (Mac) Fletcher, Principal Financial Auditor, King County Auditor's Office

1. *Proposed Agenda.* Dr. Gordon moved and Mr. Howell seconded that the board approve the proposed agenda. The board unanimously adopted the motion.

Chair Price Spratlen asked for introductions from those present.

2. *Approval of Meeting Minutes of February 19, 2002.* Dr. Gordon moved and Mr. Howell seconded that the board approve the February 19, 2002 meeting minutes. The board unanimously adopted the motion.

3. *Change of Board Counsel.* Mr. Porter announced that he must step down as board counsel due to the current demands of the Civil Division in the Prosecuting Attorney's Office. He noted that the budget shortfall has played a part in his increased responsibilities as there are more labor issues and decreased staffing. He stated his regret at leaving the board and expressed that he had enjoyed working with the board and had especially enjoyed working with Ms. Clemens. He introduced the new board counsel, Ms. Cheryl Carlson, Senior Deputy Prosecuting Attorney. Ms. Carlson has been a lawyer for twelve years, three of which were in private practice. Chair Price Spratlen said it had been very nice working with Mr. Porter and thanked him for informing her of the decision earlier that week. Ms. Clemens thanked Mr. Porter for his work on board issues and noted that she had very much enjoyed working with him. She especially appreciated his responsiveness, his thoughtful advice, and his efforts to balance all work demands. Upon a question from Mr. Howell, Ms. Carlson stated that she received her law degree from University of Puget Sound, now Seattle University Law School and that she practices in the area of land use and serves as counsel to the King County Airport. The board welcomed her.

4. *Request for Advisory Opinion on Use of County Resources.* Ms. Clemens briefed the board, stating that Mr. Fletcher is asking the Board of Ethics for an advisory opinion

regarding the use of county resources when related to professional organizations and the extent to which such use is allowable. In addition, Mr. Fletcher asks that the board provide guidance to the King County Auditor on this issue and to other employees who may be in similar circumstances.

Ms. Clemens noted that last year the requestor made a similar request to the board. In October, 2001, the requestor asked the board for an advisory opinion on whether use of county resources by the county auditor, his supervisor, for outside activities not directly related to official county business was a violation of the ethics code? In his request, the employee asserted that the auditor was "devoting a substantial amount of each workday," including staff time and office equipment, toward her campaign for presidency of the American Society of Public Administrators, a professional organization of which she is a member. The board considered the issue during its November 19, 2001, and determined that assertions of ethics code violations are more appropriately addressed to the ombudsman in the form of a complaint rather than to the board in a request for an advisory opinion.

Subsequently, the ombudsman received a complaint from the requestor on these issues and found no reasonable cause on a violation of the ethics code. During its investigation, the ombudsman found that the professional organization to which the auditor belongs is the premiere, broadly based, public administration organization for local, county and state governments. In addition, the auditor's supervisor, then Council Chair Pete von Reichbauer, had approved in advance the auditor's candidacy in the organization.

Mr. Fletcher agreed with this summary. He added that unless direct guidance was given to the auditor and to others in similar circumstances, their actions may be construed to be an abuse of county property and funds in the form of employee time. He asserted that the auditor's work with the ASPA resulted in late evaluations of her subordinates and only two out of 18 policies and procedures being written. He also provided the board with a copy of a faxed Memorandum of Agreement, dated January 11, 2002, between ASPA and a book publisher, detailing an agreement regarding a book co-authored by the auditor. Mr. Fletcher alleged that if the auditor was working on this book during business hours, it would be a matter of using county resources for personal profit, which is prohibited under the ethics code. Dr. Price Spratlen asked if other employees shared Mr. Fletcher's concerns? Yes, to the auditor's performance, but not on ethics issues. The chair asked how Mr. Fletcher arrived at the percentage he assigned to various tasks performed by the auditor. Mr. Fletcher stated it was a 'guestimate', but that the auditor must use time sheets. He stated that he had asked the OCC to review the time sheets, but the OCC had declined. The chair asked if the auditor is using county property to write the book? Mr. Fletcher did not know, but alleged that she had used the fax machine in relation to the book. Mr. Howell asked Mr. Fletcher if he had applied for the auditor's job? No, he stated that his motivation is only to hold everyone to high ethical standards. Mr. Howell stated that we need more citizens to bring this kind of information forward. Mr. Howell asked Ms. Clemens to inform the board about a similar previous issue related to Councilmember Jane Hague. Ms. Clemens stated that it was her belief that no violation of the code had been found due to Councilmember Hague's participation in a professional organization; the violation had been associated with fundraising related to her candidacy for office in the organization. Mr. Howell stated that this was a management issue, but would like to hear from the ombudsman. In addition, he directed Ms. Clemens to research how other ethics codes around the country deal with this issue and would like to have input from the chair of the council. Rev. Pruitt stated that this is primarily a management issue, although he felt that, if the allegations were true, Mr. Fletcher had a legitimate issue. Mr. Porter stated that he and Ms. Clemens had discussed the issue and agreed in recommending that the board decline to issue an opinion. He stated that the OCC is the investigative arm when complaints of violations of the ethics code are filed, and Mr. Fletcher's previous request to the ethics board was referred to the OCC. Now, Mr. Fletcher brings an even more specific charge against the auditor. Mr.

Porter stated that investigation of the issue by the board now, after it had been investigated by the OCC, might not be within the jurisdiction of the board or the procedures stated in the ethics code, although more information should not be discouraged. Mr. Howell disagreed and stated that the board needed to know more. Chair Price Spratlen stated that she shared Mr. Porter's concerns. Following additional discussion, the board determined: 1) that the ombudsman be invited to attend the next ethics board meeting to inform them of his procedures upon receiving complaints as well as the outcome of Mr. Fletcher's complaint; 2) that Ms. Clemens communicate with the ombudsman regarding the substance of this meeting; and 3) that Mr. Fletcher address his allegations to the OCC regarding appropriate use of county time related to professional organization activities if he felt that such activities are impinging upon the auditor's job performance and such failure to perform is perceived to impinge on others. Mr. Porter again noted that the latter area is a management concern and that the OCC had previously found no violation. However, the issue of using county resources for profit, such as book publishing, is an appropriate issue to address with the OCC. Mr. Fletcher asked if this issue should be filed as a separate complaint; the board stated that the decision is his. Chair Price Spratlen stated that the board wishes to seek new information, without overstepping its bounds.

Mr. Howell left the meeting at 5:12 p.m. to attend a meeting of the William Dwyer Inn of Court at Seattle University School of Law.

5. *Ethics Legislation.* Mr. Porter briefed the board. He informed it that although the proposed amendment to the post employment restrictions under the ethics code had been board approved and transmitted to the executive, subsequent review indicated certain inconsistencies with time restrictions. Following discussion, Dr. Gordon moved that in light of counsel's new information, the board should await Ms. Carlson's review and be informed by her report at the next meeting, but will move the proposed legislation forward as quickly as possible; Rev. Pruitt seconded the motion and the motion passed unanimously.

6. *Meetings with Councilmembers.* Ms. Clemens briefed the board on the status of current meetings with councilmembers. To date, Dr. Price Spratlen has met with Councilmembers Lambert and Edmonds; Mr. Howell has met with Councilmember Constantine; and Dr. Gordon is scheduled to meet with Councilmembers Pelz and Hague. Dr. Price Spratlen recommended setting a 15 minute appointment. She also asked Ms. Clemens to set an appointment with the executive regarding expiring board terms. All terms, except the term of the Chair, will have expired by June 1, 2002.

7. *Staff Report.* Ms. Clemens briefed the board. Monthly Ethics Bulletin. The purpose of the monthly bulletins are to identify current county ethics issues in which the ethics office is participating, and are designed to keep the board and DES leadership informed. Financial Disclosure Program. Ms. Clemens informed the board that, as of noon, the filing compliance statistics were as follows: of 1,968 affected employees, only 45 had not filed; of 433 board and commission members required to file, 46 had not filed. Ms. Clemens will submit a report to the executive and council on April 30 identifying those who have not filed and request disciplinary action for employees and removal from board and commission membership for members. Ms. Clemens acknowledged the work of Mr. Peter Toliver, the financial disclosure coordinator, for his role in the program's success. Seattle and Elections Commission Executive Director Retires. Ms. Clemens noted Ms. Carol Van Noy's retirement from the SEEC; the board asked that a letter be drafted acknowledging Ms. Van Noy's work and conveying the board's congratulations. Public Disclosure Request. A letter from the ethics office to a requestor for public disclosure documents for information only. Board Response to Request for Advisory Opinion. A letter from the ethics office to the requestor related to the HUM messaging system for information only.

Dr. Price Spratlen again thanked Mr. Porter for this work on behalf of the board and stated that the board is looking forward to working with his successor, Ms. Carlson.

Rev. Pruitt moved and Dr. Gordon seconded a motion to adjourn the meeting. The board unanimously approved the motion and the meeting was adjourned at 6:11 p.m.

Approved this 16th day of September, 2002, by the King County Board of Ethics.

Signed for the Board: _____
Dr. Lois Price Spratlen, Chair